

IN THE SENATE

SENATE BILL NO. 1128

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE STATE TAX COMMISSION; AMENDING SECTION 63-103, IDAHO CODE, TO PROVIDE PROVISIONS FOR SETTLEMENT AGREEMENTS; AMENDING SECTION 63-3047, IDAHO CODE, TO PROVIDE PROCEDURES WHEN A COMPROMISE OR SETTLEMENT AGREEMENT OCCURS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 63-3048, IDAHO CODE, TO PROVIDE PROCEDURES WHEN THE TAX LIABILITY OF A TAXPAYER IS EQUAL TO OR EXCEEDS FIFTY THOUSAND DOLLARS AND A SETTLEMENT AGREEMENT OR CLOSING AGREEMENT OCCURS AND TO MAKE A TECHNICAL CORRECTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-103, Idaho Code, be, and the same is hereby amended to read as follows:

63-103. EMPLOYEES – COMPENSATION – EXPENSES. (1) The state tax commission may employ an officer who shall serve as secretary of the commission and shall also employ such other persons as may be necessary for the performance of its duties. Certain of its employees may be designated as deputies who shall perform such duties as prescribed by the state tax commission. The state tax commission may delegate to any of its employees the duty of assisting in the collection, audit, inspection and enforcement of any tax or license and may authorize any of its employees to act in its place and stead. The state tax commission may delegate any other function, responsibility or duty imposed upon the commission to one (1) or more commissioners or deputy commissioners; provided however, where the amount in issue relating to the tax liability of any taxpayer is equal to or exceeds fifty thousand dollars (\$50,000), and the commission has delegated the authority to compromise such liability to an individual commissioner, the compromise settlement or closing agreement procedure shall be executed by at least one (1) commissioner in addition to the delegated commissioner. The commission shall adopt guidelines to govern review of compromise agreements. The state tax commission may employ counsel, or may retain counsel governed by the provisions of section 63-3048, Idaho Code.

(2) The compensation of all state tax commission employees shall be paid upon the same basis and in the same manner as the compensation of other state employees is paid.

(3) The traveling expenses of the members of the state tax commission and its employees when traveling in performance of official duty, and other necessary expenses incurred in performance of its duties, shall be paid upon the same basis and in the same manner as the expenses of other state employees are paid.

SECTION 2. That Section 63-3047, Idaho Code, be, and the same is hereby amended to read as follows:

63-3047. COMPROMISED CASES. The state tax commission or its delegate may compromise any ~~penalty taxes, penalties or interest~~ arising under the provisions of this ~~act~~ chapter instead of commencing suit thereon and may ~~compromise~~ settle any such case with the consent of the attorney general after suit thereon has been commenced. ~~Where any penalty case is compromised the state tax commission shall keep on file in its office reasons for the settlement of any case by compromise.~~

SECTION 3. That Section 63-3048, Idaho Code, be, and the same is hereby amended to read as follows:

63-3048. ADJUSTED OR COMPROMISED CASES – SETTLEMENT AND CLOSING AGREEMENTS. (a) The state tax commission or its delegate is authorized to enter into an agreement in writing with any person relating to the liability of such person, or of the person for whom he is acting, in respect of any tax under this ~~act~~ chapter for any taxable period ending prior to the date of the agreement.

(b) Where the amount in issue relating to the tax liability of any taxpayer is equal to or exceeds fifty thousand dollars (\$50,000) and the commission has delegated the authority to enter into a settlement or closing agreement for such liability to an individual commissioner, the following minimum standards of procedure shall apply:

(1) In addition to the individual commissioner delegated the principal responsibility to negotiate on behalf of the commission, a second commissioner shall be present for a final review of the negotiated settlement or closing agreement. Both commissioners shall be required to sign the settlement or closing agreement to make it binding and complete.

(2) In addition to the two (2) commissioners present at the final review, a representative of the office of the attorney general shall be present as well as tax commission staff, which shall include a tax policy specialist and either a representative from the audit division or other division where the case originated.

(3) The tax policy specialist or deputy attorney general assigned to a settlement or closing agreement shall prepare and submit to the commission a written summary for the final review explaining the terms of the settlement or closing agreement. The summary shall include any recommendations of agency staff including audit staff.

(4) The tax commission shall retain a copy of all settlement and closing agreements and, in addition, all summaries prepared pursuant to subsection (b)(3) of this section.

(c) The tax commission shall submit an annual report to the governor and the legislature by March 1 of each year summarizing all settlement and closing agreements entered into during the previous calendar year as defined by subsection (b) of this section.

(d) The tax commission shall promulgate administrative rules in compliance with chapter 52, title 67, Idaho Code, to implement the provisions of this section.

(e) Such agreement shall be final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

(1) The case shall not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of the state.

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.